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**FILED**  
DISTRICT COURT OF GUAM

JAN 19 2005

**MARY L.M. MORAN  
CLERK OF COURT**

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF GUAM**

133

JULIE BABAUTA SANTOS, et. al.,

Petitioners,

vs.

FELIX P. CAMACHO, etc., et. al.,

Respondents.

Civil Case No. 04-00006

**ARTEMIO B. ILAGAN'S OBJECTION TO  
THE PEOPLE'S SUBPOENA  
DUCES TECUM**

**GENERAL OBJECTIONS**

Mr. Ilagan objects to the subpoena *duces tecum* served by the Attorney General on January 5, 2005. It seeks irrelevant documents and is overbroad, unduly burdensome, harassing, and redundant. Leaving aside the absence of any need for these documents in the first place, the Attorney General already has them because Mr. Ilagan already produced all responsive non-privileged documents to the Attorney General pursuant to a Sunshine Act request that the Attorney General served upon Mr. Ilagan on January 4, 2005.

Moreover, it is improper to use a subpoena *duces tecum* in lieu of a document request, when the recipient of the subpoena is a party, such as Mr. Ilagan. *Wirtz v. Local Union 169*, 37 F.R.D. 349, 351 (D. Nev. 1965).

1  
2 [F]ederal discovery processes are not intended to require such  
3 wholesale disclosure of government memoranda, reports,  
4 communications and statements as is contemplated under the  
5 terms of this subpoena. A subpoena *duces tecum*, under Rule  
6 45, is not intended as a substitute for a motion to produce  
7 under Rule 34, where, as in this case, the subpoena requires  
8 production of documents under the control of plaintiff, as  
9 distinguished from documents in the possession and control of  
10 an independent witness.

11 *Id.*

12 Mr. Ilagan further objects that the subpoena calls for documents that are protected by the  
13 attorney-client privilege, by executive privilege, are not in his possession, and/or could be  
14 obtained from others. Mr. Ilagan also objects that the subpoena calls for documents that are  
15 equally available to the Attorney General.

16 Subject to the foregoing objections, and incorporating each General Objection into the  
17 foregoing responses, Mr. Ilagan makes the following specific objections:

## 18 DOCUMENT DEMANDS

### 19 Document Demand No. 1

20 All contracts, purchase orders, memoranda, executive orders, correspondence, notices  
21 and other documents evidencing, relating to and bearing on the hiring of Rawlen MT  
22 Mantanona, Esq. and/or the Mantanona Law Office to provide legal services to you in  
23 this court case.

### 24 Objections

25 Mr. Ilagan objects that this demand is irrelevant and redundant of the Sunshine Act  
request made by the Attorney General to which Mr. Ilagan already has responded fully.  
This request also seeks privileged communications, documents that are available from  
sources other than Mr. Ilagan, and documents that are within the Attorney General's  
possession.

1 Notwithstanding the specific and general objections stated above, all non-privileged  
2 documents not already in the possession of the Attorney General's office will be  
3 produced at the January 25, 2004 hearing pursuant to the Court's Order of January 14,  
4 2005 moving the hearing date.

5 **Document Demand No. 2**

6 All correspondence in 2004 and 2005 from you and/or your representatives to the  
7 Attorney General or any Assistant Attorney General regarding this case and any other  
8 EITC court cases.

9 **Objections**

10  
11 Mr. Ilagan objects that this demand is irrelevant and redundant of the Sunshine Act  
12 request made by the Attorney General to which Mr. Ilagan already has responded fully.  
13 This request also seeks privileged communications, documents that are available from  
14 sources other than Mr. Ilagan, and documents that are within the Attorney General's  
15 possession, such as "[a]ll correspondence in 2004 and 2005 from you and/or your  
16 representatives to the Attorney General or any Assistant Attorney General regarding  
17 this case and any other EITC court cases."

18 Notwithstanding the specific and general objections stated above, all non-privileged  
19 documents not already in the possession of the Attorney General's office will be  
20 produced at the January 25, 2004 hearing pursuant to the Court's Order of January 14,  
21 2005 moving the hearing date.

22 **Document Demand No. 3**

23 "All documents, memoranda, e-mails and other documents evidencing, bearing on and  
24 relating to any payments of Earned Income Tax Credits by the government of Guam to  
25 anyone during 2004."

1 **Objections**

2 Mr. Ilagan objects that this demand is irrelevant and redundant of the Sunshine Act  
3 request made by the Attorney General to which Mr. Ilagan already has responded fully.

4 This request also seeks privileged communications and documents that are available  
5 from sources other than Mr. Ilagan. Mr. Ilagan further objects that pursuant to 26 U.S.C. §  
6 7213(a), federal and state official cannot disclose the tax records of any taxpayer.

7  
8 Notwithstanding the specific and general objections stated above, all non-privileged  
9 documents and non-confidential records not already in the possession of the Attorney  
10 General's office will be produced at the January 25, 2004 hearing pursuant to the  
11 Court's Order of January 14, 2005 moving the hearing date.

12 Dated: January 19, 2005

13 MANTANONA LAW OFFICE  
14 Attorney for **Lourdes M. Perez and**  
15 **Artemio B. Ilagan**



16 By:

17 RAWLEN M T MANTANONA  
18 A duly licensed employee.  
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